

REMARKS/ARGUMENTS

Claim Objections/Rejections

The present application includes pending claims 1-20, all of which have been rejected. The Applicants respectfully submit that the unamended claims define patentable subject matter.

Initially, the Applicants notes that a goal of patent examination is to provide a prompt and complete examination of a patent application:

It is essential that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the *initial review* of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, Office personnel *should* state *all* reasons and bases for rejecting claims in the *first* Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

Manual of Patent Examining Procedure (MPEP) § 2106(II). As such, the Applicants assume, based on the goals of patent examination noted above, that the **present** Office Action has set forth “all reasons and bases” for rejecting the claims.

The claims 1, 3-12, and 16-18 have been rejected under 35 U.S.C § 102(e) as being anticipated by Michaelis et al. (US 2004/0009751 hereinafter, Michaelis). The claims 2, 13-15, 19, and 20 have been rejected under 35 U.S.C § 103(a) as being unpatentable over Michaelis in view of Unruh (US 2003/161288 hereinafter Unruh). The Applicants respectfully traverses these rejections and request reconsideration of the claims at least for the reasons previously set forth during prosecution and in view of the remarks stated below.

Claim Rejections under 35 U.S.C. § 102

With regard to the anticipation rejections under 35 U.S.C. § 102, MPEP 2131 states that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 2 USPQ2d 1051, 1053 (Fed.Cir. 1987). MPEP 2131 also states that “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Rejection of claims 1, 3-12, and 16-18 under 35 U.S.C. § 102(e)

Claims 1, 3-12, and 16-18 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Michaelis. The claims 1 and 11 are independent claims.

Rejection of claim 1

The Applicants respectfully submit that Michaelis does not teach all the elements of Claim 1. For example, Michaelis does not teach “detecting a predetermined application that is configured to receive or transmit data on the second wireless transceiver circuit,” as stated in a third clause of the independent claim 1. The Office Action states that this clause is anticipated by Page 1 [0003]. (Page 1). However, Michaelis does not teach “detecting a pre-determined application.” Rather, Michaelis states that “an AT may be equipped to select different wireless network interfaces to serve, via the available network access points, packets associated with particular communication applications such as web browsing, email, messaging or the like.” (Page 1 [0003]). Accordingly, Michaelis assumes that the application is present, and does not detect the application.

Michaelis also does not teach “assigning a third priority indication to the second wireless transceiver circuit when the predetermined application is detected” nor “receiving or transmitting data on the second wireless transceiver circuit in accordance with the relative priority of the third priority indication to the first priority indication,” as stated in a fourth and fifth clauses of the independent claim 1. The Office Action states that this clause is anticipated by Michaels in Page 1 [0004-0006] and Page 2 [0021-

0025]. (Page 1). However, the Office Action does not specifically state which lines show anticipation.

Michaelis describes “explicitly identify[ing]” priority of network interfaces and selecting a network interface with the highest priority for an application or an AT (access terminal). Page 1 [0004-0006]. Additionally, Michaelis describes “identify[ing] wireless network interfaces 14 that are qualified to serve packets associated with a particular communication application.” Page 2 [0021]. Michaelis further states that selection of a network interface for an application will depend on various characteristics associated with the network interfaces. Page 2 [0024]. Michaelis also states that an AT may change a network interface “for each new packet sent by a communication application.”

The Applicants respectfully submit that Michaelis does not teach “assigning a third priority indication to the second wireless transceiver circuit when the predetermined application is detected.” Instead, Michaelis teaches assigning priorities for the purpose of selecting a network interface to be used by an application. That is, while Michaelis uses priority for selecting a network interface for use by an application, the Applicants’ invention assigns a priority to the second wireless transceiver circuit after a pre-determined application has been detected.

Since Michaelis does not teach all the elements of the independent claims 1, Michaelis cannot anticipate under 35 U.S.C. § 102(e). At least for these reasons, the Applicants respectfully request that claim 1 be allowed.

Rejection of claims 3-10

Since the dependent claims 3-10 depend on the independent claim 1, which the Applicants believe is allowable at least for the reasons stated above, the Applicants respectfully request that the rejection of the claims 3-10 be withdrawn.

Rejection of claim 11

The Applicants respectfully submit that Michaelis does not teach all the elements of Claim 11. For example, Michaelis does not teach “an interface coupling the first and second wireless interface circuits for transmitting priority levels between the first and second wireless interface circuits,” as stated in a third clause of the independent claim 11. The Office Action states that this clause is anticipated by Page 1 [0004-0007] in Michaelis. (Page 4). However, Michaelis only states that “a wireless AT [] assigns

priorities to wireless network interfaces.” (Page 1 [0006]). Michaelis does not teach in paragraphs 0004-0007 an interface that allows transmitting priority levels between the first and second wireless interface circuits.

Therefore, since Michaelis does not teach all the elements of the independent claim 11, Michaelis cannot anticipate under 35 U.S.C. § 102(e). At least for these reasons, the Applicants respectfully request that claim 11 be allowed.

Rejection of claim 12 and 16-18

Since the dependent claims 12 and 16-18 depend on the independent claim 11, which the Applicants believes is allowable at least for the reasons stated above, the Applicants respectfully request that the rejection of the claims 12 and 16-18 be withdrawn.

Claim Rejections under 35 U.S.C. § 103(a)

With regard to an obviousness rejection, MPEP 2142 states that in order for a *prima facie* case of obviousness to be established, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Further, MPEP 2143.01 states that “the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination,” and that “although a prior art device ‘may be capable of being modified to run the way the apparatus is claimed, there must be a *suggestion or motivation in the reference* to do so’” (citing *In re Mills*, 916 F.2d 680, 16 USPQ 2d 1430 (Fed. Cir. 1990)). Moreover, MPEP 2143.01 also states that the level of ordinary skill in the art cannot be relied upon to provide the suggestion...,” citing *AI-Site Corp. v. VSI Int’l Inc.*, 174 F.3d 1308, 50 USPQ 2d 1161 (Fed. Cir. 1999).

With regard to an obviousness rejection, MPEP 2142 states that in order for a *prima facie* case of obviousness to be established, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves

or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Further, MPEP 2143.01 states that “the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination,” and that “although a prior art device ‘may be capable of being modified to run the way the apparatus is claimed, there must be *a suggestion or motivation in the reference* to do so” (citing *In re Mills*, 916 F.2d 680, 16 USPQ 2d 1430 (Fed. Cir. 1990)). Moreover, MPEP 2143.01 also states that the level of ordinary skill in the art cannot be relied upon to provide the suggestion...,” citing *Al-Site Corp. v. VSI Int’l Inc.*, 174 F.3d 1308, 50 USPQ 2d 1161 (Fed. Cir. 1999).

Rejection of claims 2 and 13-15 under 35 U.S.C. § 103(a)

The Office Action asserts that the claims 2 and 13-15 are rejected under 35 U.S.C § 103(a) as being unpatentable over Michaelis in view of Unruh.

Rejection of claim 2 and 13-15

Claim 2 depends on the independent claim 1. Claims 13-15 depend on the independent claim 11. Since the Applicants believe that the independent claims 1 and 11 have been shown to be allowable for at least for the reasons stated above, the Applicants respectfully request that the rejection of the claims 2 and 13-15 be withdrawn.

Rejection of claim 19 under 35 U.S.C. § 103(a)

The Office Action asserts that the claim 19 is rejected under 35 U.S.C § 103(a) as being unpatentable over Michaelis in view of Unruh. The Office Action states “[r]egarding claim 19, Michaelis teaches a method of coordinating” (Emphasis added) (Page 7). However, Claim 19 is an apparatus claim that starts with “[a]n apparatus for implementing a dynamic collaboration protocol” Furthermore, the Office Action states that Claim 19 comprises:

... assigning first and second priority indications to first and second transceiver circuits where each priority indication may be selected from

a plurality of available priority indications (Page 1 [0004-0006]), receiving or transmitting data on the first wireless transceiver circuit in accordance with the relative priority indication to the second priority indication (Page 1 [0005]), detecting a predetermined application that configured to receive or transmit data on the second wireless transceiver circuit (Page 1 [0003]), ... and coordinating performance so that the priority indications are met. (Page 1 [0004-0005])

(Pages 7 and 8). These clauses are not part of Claim 19. For comparison, Claim 19 is listed below:

An apparatus for implementing a dynamic collaboration protocol, comprising: first means for sending or receiving a first wireless signal having a first allocated priority, comprising a first MAC layer module; second means for sending or receiving a second wireless signal having a second allocated priority, comprising a second MAC layer module; means for adjusting the second allocated priority to be higher than the first allocated priority if real-time human interface device (HID) traffic is detected on the second means; and means for interfacing the first and second MAC layer modules to coordinate throughput performance of the first and second means such that whichever of the first or second means has a higher allocated priority is given higher throughput performance.

The Office Action cites a part of Claim 19, "a means for adjusting the second allocated priority to be higher than the first allocated priority if real-time human interface traffic is detected on the second means (Page 1 [0004-0007] and Page 2 [0017 & 0025])." (Page 8).

Since the two paragraphs of the Office Action regarding rejection of Claim 19 do not seem to apply to Claim 19, the Applicants will assume that Claim 19 is not rejected. If the Office Action needs to be corrected with respect to Claim 19, the Applicants request that the corrected Office Action be a **first** response in order to comply with the MPEP requirement that the Office Action state "all reasons and bases for rejecting claims in the first Office action ... [and d]eficiencies should be explained clearly, particularly when they serve as a basis for a rejection" MPEP § 2106(II).

Although the Office Action is unclear and inconsistent in its basis for rejection of Claim 19, the Applicants will make an assumption that the Office Action asserts that Michaelis and Unruh teaches as stated in the Office Action with respect to Claim 19.

Michaelis does not teach “detecting a predetermined application that is configured to receive or transmit data on the second wireless transceiver circuit” as stated in the Office Action. (Pages 7 & 8). The Office Action states that this is taught by Michaelis on Page 1 [0003]. (Page 8). Rather, Michaelis states that “an AT may be equipped to select different wireless network interfaces to serve, via the available network access points, packets associated with particular communication applications such as web browsing, email, messaging or the like.” (Page 1 [0003]). Accordingly, Michaelis assumes that the application is present, and does not detect the application.

The Applicants agree with the Office Action that “Michaelis differs from the claimed invention by not explicitly reciting the use of MAC layer modules for communicating priority levels between wireless interface circuits.” However, the Applicants disagree with the Office Action assertion that “Unruh teaches an access terminal (Fig. 1 [100] that includes MAC layer modules (Fig. 1 [110, 112, 114, 116 & 118]) coupled to the wireless transceiver circuits so that priority indications can be transferred between the MAC layer modules. (Pages 2-3 [0028])” (Page 8).

Unruh states in paragraph [0028] that “[t]he AMD 120 internal to the CMM 100 determines the ... priority “ Unruh does not teach, as stated in Claim 19, a “means for interfacing the first and second MAC layer modules to coordinate throughput performance of the first and second means such that whichever of the first or second means has a higher allocated priority is given higher throughput performance.” Rather, Unruh states in paragraph [0028] that the “medium access controller 110 selects a wireless carrier 201-203, 20n based on one or more of the determined message type, priority, packet length, destination and air interface for each data packet 140.” (Page 3).

Accordingly, based on at least the foregoing, the Applicants believe that the rejection of the independent Claim 19 under 35 U.S.C. § 103(a) over Michaelis in view of Unruh has been overcome and respectfully requests that the rejection be withdrawn.

Rejection of claim 20

Since the dependent claim 20 depends on the independent claim 19, which the Applicants believe is allowable at least for the reasons stated above, the Applicants respectfully request that the rejection of Claim 19 be withdrawn.

The Applicants respectfully reserve the right to argue additional reasons that support the allowability of all rejected claims should that need arise in the future.

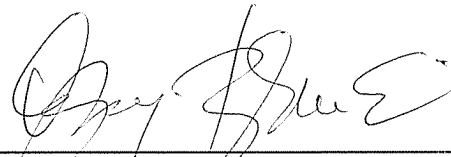
CONCLUSION

Based on at least the foregoing, the Applicants believe that all claims 1-20 are in condition for allowance. If the Examiner disagrees, the Applicants respectfully request a phone interview, and request that the Examiner telephone the undersigned at 312-775-8000.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously requested.

Respectfully submitted,



Ognyan I. Beremski, Esq.
Registration No. 51,458
Attorney for Applicant(s)

Date: July 6, 2006

MCANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661
(312) 775-8000